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REVIEWS AND CRITICISMS

and fractures of surface, means of estimating the time of additions to documents, the testing of inks, the utilization of finger prints—tests which within recent years have been reduced to a science.

University of Wyoming.

JUNE E. DOWNEY.

THE PRINCIPLES OF JUDICIAL PROOF, AS GIVEN BY LOGIC, PSYCHOLOGY AND GENERAL EXPERIENCE, AND ILLUSTRATED IN JUDICIAL TRIALS. Compiled by *John Henry Wigmore*. Little, Brown and Company, Boston, 1913. Pp. XVI, + 1179.

Professor Wigmore terms this volume a compilation, I presume, because the major portion of it is devoted to extracts from various authors and reprintings of well-known trials. However, the fact that some nine-tenths of the work is thus derived from other sources must in no way detract from its significance nor minimize the importance of the 115-odd pages in which he has contributed directly of his own constructive thinking. The extracts from 74 different authors and the 161 illustrative cases drawn from court procedure gain their significance primarily when organized as exemplifications of the author's development of his own theme.

This theme is the analysis of the principles of proof, the outlining of a probative science, independent of the artificial rules of procedure. These artificial rules of procedure (admissibility) have, in the author's opinion, tended to monopolize attention to the exclusion of what is, after all, the main activity—the persuasion of the tribunal's mind to a correct conclusion by safe materials. He seeks in this volume, therefore, to present, in tentative form, a *novum organum* for this neglected phase, "natural" proof, as it might be termed, the probative value of evidence as determined by logic, psychology and general experience and regardless of the rules of admissibility.

The book is intended to be used in law-school work, and in particular to encourage and to train the student of law himself to attack scientifically the analysis and marshaling into systematic and logical perspective of complex masses of evidential data. This task of disentangling proof is fully developed only in Part III; Parts I and II afford a preliminary drill in analysis. To indicate the scope of treatment it will be sufficient here to set forth the table of contents for these two parts.

Part I. Circumstantial Evidence.

I. Evidence to prove an event, condition, quality, cause or effect of external inanimate nature.

II. Evidence to prove identity.

III. Evidence to prove a human trait, quality or condition.

a. Moral character.

b. Motive.

c. Knowledge or belief.

d. Plan (design, intention).

e. Intent.

IV. Evidence to prove the doing of a human act.

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- a. Concomitant circumstances.
 - 1. Time and place.
 - 2. Physical and mental capacity, tools, clothing, etc.
- b. Prospectant circumstances.
 - 1. Moral character.
 - 2. Emotion (motive).
 - 3. Plan (design, intention).
 - 4. Habit (usage, custom).
- c. Retrospectant circumstances.
 - 1. Mechanical (physical) traces.
 - 2. Mental traces.

V. The datum solvendum.

In Part II, Wigmore takes up testimonial evidence with reference to the effect on the trustworthiness of testimony of generic human traits (race, age, sex, mental diseases, moral character, feeling and experience), of the testimonial process itself (perception, memory, narration), the extent and sources of error in testimony and the relative probative value of circumstantial and testimonial evidence.

When these portions of the work have been mastered, the student is ready to undertake the "problems" of Part III, which consist of masses of mixed evidence taken from concrete cases and which are designed to be used for mere mental entertainment or for serious analysis and study. That is, Wigmore recommends that his readers practice disentangling from masses of evidence the logical interconnections of the various evidential items and assigning each its proper place and weight. To aid in this process he presents a new and interesting logical schema for determining the "net persuasive effect of a mixed mass of evidence." This schema takes the form of a chart, upon which numerous symbols represent the evidential items and their mutual interrelations. The symbols facilitate the process of ordering ideas into rational sequence and combination. The mere construction of such a chart has surely direct value because of the necessity that it entails for clarity of thinking. Why, indeed, might not exercises of this sort form an admirable feature of courses in logic or in argumentation for all college students, whether prospective lawyers or not?

The reviewer has no authority to evaluate this book as a contribution to legal literature, but as a psychologist keenly interested in the application of psychological experiment to legal problems, he has read this work with the greatest satisfaction and profit.

Cornell University.

G. M. WHIPPLE.

BOOKS AND MONOGRAPHS RECEIVED.

THE FOREIGN BORN INSANE, A Racial Study of the Patients Admitted to the Insane Department of the Philadelphia General Hospital in Ten Years (1903-1912). By Charles W. Burr. Reprinted from *The Journal of the American Medical Association*, Jan. 3, 1914, pp. 25-27.